

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. CR 14-2126 RB

STEVEN ROMAN,

Defendant.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court comes on a letter Defendant Steven Roman submitted to the Court on February 15, 2022, which the Court construes as a Motion for Compassionate Release under 18 U.S.C. § 3582(c)(1)(A). (Doc. 174.) Having reviewed the motion, the record, and the applicable law, the Court finds the motion is not well-taken and should be **dismissed**.

I. Background

On May 9, 2016, Roman was sentenced to 77 months imprisonment after pleading guilty to a one-count Indictment charging distribution of 50 grams and more of a mixture and substance containing methamphetamine in violation of 21 U.S.C. § 841(b)(1)(B). (Docs. 3; 109.) He now moves the Court, pursuant to 18 U.S.C. § 3582(c)(1)(A), to reduce his sentence due to the COVID-19 pandemic. (Doc. 174.)

II. Analysis

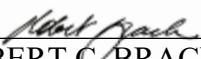
The First Step Act went into effect on December 21, 2018. *See* First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194. Prior to the passage of the First Step Act, only the Director of the Bureau of Prisons (BOP) could file a motion for compassionate release, and that very rarely happened. Section 603(b) of the First Step Act modified 18 U.S.C. § 3582(c)(1)(A), however, with

the intent of “increasing the use and transparency of compassionate release.” Pub. L. No. 115-391, 132 Stat. 5194, at *5239 (capitalization omitted). That section now provides that a sentencing court may modify a sentence either upon a motion of the Director of the BOP “or upon motion of the defendant after [she] has fully exhausted all administrative rights to appeal a failure of the [BOP] to bring a motion on [her] behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant’s facility” 18 U.S.C. § 3582(c)(1)(A).

Roman did not allege in his motion that he had exhausted his administrative rights before filing his motion with the Court. (*See* Doc. 174.) Consequently, Roman has not met his burden of establishing that he has exhausted his administrative remedies, and his motion is premature. The Court treats § 3582(c)(1)(A)’s exhaustion requirement as jurisdictional. *See United States v. Zamarripa*, No. CR 18-2757 RB, 2020 WL 3035226, at *2 (D.N.M. June 5, 2020). Because Roman filed his motion prematurely, the Court will dismiss it for lack of exhaustion.

THEREFORE,

IT IS ORDERED that the Motion for Compassionate Release (Doc. 174) is **DISMISSED** for failure to exhaust.



ROBERT C. BRACK
SENIOR U.S. DISTRICT JUDGE